

(d) A copy of any patent, publication or other information listed in an information disclosure statement is not required to be provided if it was previously cited by or submitted to the Office in a prior application, provided that the prior application is properly identified in the statement and relied upon for an earlier filing date under 35 USC 120. (emphasis added)

Please note that the submitted statement indicates that it is under both 37 CFR 1.97 and 1.98 and identifies the parent application and the claim of priority made. Accordingly, copies of references were not provided.

Claim 35 has been amended in accordance with the Examiner's request to thereby render objection thereto moot.

Claims 1-11, 13-47 and 51-53 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 12-57 and 91-96 of co-pending Application No. 08/533,589 in view of Gettle et al. (USP 5,225,622). Applicants submit herewith a terminal disclaimer in compliance with 37 CFR 1.321(b) and (c), and respectfully submit that the provisional rejection is thereby overcome.

Claims 1, 2, 8-11, 13, 15, 19, 33 and 46 stand rejected under 35 USC 103(a) as being unpatentable over Galber (USP 4,915,291) in view of Gettle et al. Applicants respectfully traverse this rejection and request its withdrawal for the reasons that follow.

It is the Examiner's position that Galber discloses the claimed invention except for the blast mitigating material. This is not so. Galber discloses a self-sealing modular packaging envelope or container, formed from a tubular body with a cover on either end. After complete assembly of the container, the self-sealing function (a fixed coupling) prevents opening of the container without the forcible, destructive removal of at least one of the covers. See column 2, lines 46-48. Furthermore, there are no specific materials of construction set forth; rather, "...any suitable materials, depending on the provided use for the container..." can be used. See column 2, lines 35-37. Impermeable materials are broadly referred to as suitable for use in "...packaging grains, powders, liquids and so on." See column 2, lines 38-40. One advantageous use disclosed is for hospital waste materials, i.e., as a medical waste container. It is clear therefore that the inventor's contemplated use for the envelope or container is as packaging designed for disposal or destruction – one-time use. There is nothing to teach or suggest that the packaging envelope or container is blast resistant or designed so as to receive an explosive. And contrary

to the Examiner's assertion, Applicants can find nothing in Galber to teach or suggest a fibrous material as a suitable choice for construction. It is respectfully submitted therefore, that Galber does not teach the claimed invention.

Gettle et al. fails to supply the deficiencies of Galber. Gettle et al. teaches the use of aqueous foams as a pressure attenuation medium for shock waves in a porous container. There is nothing in Gettle et al., however, that teaches or suggests the collapsible container of blast resistant material claimed by Applicants, nor the fibrous material of the narrower claims. There is furthermore no motivation to combine these two references. The Galber reference discloses disposable packaging containers whereas the Gettle et al. reference discloses reusable assemblies for attenuation of pressures.

Claims 1, 11, 14, 33 and 34 stand rejected under 35 USC 103(a) as being unpatentable over Lewis (USP 674,009) in view of Gettle et al. Applicants respectfully traverse this rejection and request its withdrawal for the reasons that follow.

It is the Examiner's position that Lewis discloses the claimed invention except for the blast mitigating material. Applicants respectfully disagree. Lewis discloses that it is known in the art to construct a container from three separate bands of material. However, Lewis fails to disclose or suggest that its bands are blast resistant. One of ordinary skill in the art would not consider the bands of "stiff paper" or "stiff cellular paper board" to be blast resistant, regardless of construction mode.

Gettle et al. fails to supply the deficiencies of Lewis. Gettle et al. teaches the use of aqueous foams as a pressure attenuation medium for shock waves in a porous container. There is nothing in Gettle et al., however, that teaches or suggests the collapsible container of blast resistant material claimed by Applicants, nor the fibrous material of the narrower claims. There is furthermore no motivation to combine these two references. The Lewis reference discloses knockdown paper box containers whereas the Gettle et al. reference discloses reusable assemblies for attenuation of pressures.

Claims 3-7, 16-18, 20-31 and 35-45 stand rejected under 35 USC 103(a) as being unpatentable over Galber in view of Gettle et al. (as applied to claims 1 and 33), and further in view of Prevorsek et al. (USP 5,545,455). Applicants respectfully traverse this rejection and request its withdrawal for the reasons that follow.

The prior discussion with respect to Galber and Gettle et al. is incorporated here. With reference to Prevorsek et al., Applicants acknowledge that the fibers and

matrices disclosed therein have utility in Applicants' claimed invention. However, Applicants respectfully disagree with the Examiner's assertion that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Galber with the fibrous material of Prevorsek et al., in order to make a container with improved penetration resistance. As stated previously, the Galber containers are designed to be disposed of after a single use, and there is absolutely nothing in Galber to suggest that the containers should be used to contain explosives.

Claim 32 stands rejected under 35 USC 103(a) as being unpatentable over Prevorsek et al. in view of Lewis and Gettle et al. Applicants respectfully traverse this rejection and request its withdrawal for the reasons that follow.

The Examiner states that Prevorsek et al. teaches, at column 10, lines 48-56, the use of two or more reinforcing bands arranged at varying angles. Applicants respectfully disagree that the Prevorsek et al. teaching here is directed to reinforcing bands. Rather, Prevorsek et al. is referring to the materials of construction for girdle 18 in Figure 2. The angular orientation of adjacent layers of fibers, e.g., at 0/90, creates a material commercially available from AlliedSignal Inc. as SPECTRA SHIELD® or GOLD SHIELD® ballistic material. This material is then wrapped to form a girdle 18 about stacked fibrous layers. Such a construction was used in panels or faces for a container, but there is absolutely nothing in Prevorsek et al. to suggest the use of bands to form a container. A container must be able to contain something. Reference to Figure 2 of Prevorsek et al. will show that the material could be used to form a container, but as such, does not form a container. These deficiencies of Prevorsek et al. are not met by Lewis and/or Gettle et al. for the reasons previously given. There is absolutely no motivation for one of ordinary skill in the art to combine these references.

Claims 47 and 51-53 stand rejected under 35 USC 103(a) as being unpatentable over Galber in view of Gettle et al. and Prevorsek et al. Applicants respectfully traverse this rejection and request its withdrawal for the reasons previously given with respect to these references.

On the basis of the preceding amendment and remarks, it is submitted that the claims presently on file should be passed to issue; Applicants respectfully request same.

If the Examiner believes that there are any unresolved issues that could be clarified by an interview, please contact the attorney of record at the telephone number below.

Respectfully submitted,
IGOR PALLEY ET AL.

By: Virginia Szigeti Andrews
Virginia Szigeti Andrews
Applicants' Attorney
Registration No. 29,039

AlliedSignal Inc.
P.O. Box 31
Petersburg, VA 23804
(804) 520-3651

VSA/rbk

Enclosure (terminal disclaimer)

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Virginia Szigeti Andrews
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DATE December 3, 1998